IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.480 OF 2007

Charu V.Shah Prop. M/s.
Vipul Enterprises ..Petitioner.

V/s.

Union of India & Ors. ..Respondents.

Mr.H.R.Shetty i/b.M/s.H.R.Shetty & Co. for petitioner.

Mr.Y.S.Bhate with L.R.Prajapati for respondents.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 8TH MARCH, 2007.

P.C. :-

. Heard the learned counsel for the petitioner and the respondents. Rule, returnable forthwith. By consent of the parties, petition is taken up for final hearing.

2. By this petition the petitioner is challenging the order in original dated 17th November, 2004 which as issued on 12th May, 2006 and also the order passed by the Appellate Authority on 1st December, 2006.

3. The contention of the petitioner is that the petitioner has complied with the export obligation and has realised the full proceeds of the exports and it is also the contention of the petitioner that the petitioner has received the bank realisation certificate.

4. It appears that the order in original was passed ex-parte as notice which was sent to the petitioner was served on the wrong address and the petitioner was not served. Aggrieved thereby, the petitioner had preferred the above appeal. The appellate authority by its orer dated 1st December, 2006 has dismissed the said appeal on th ground that the same is barred by the limitation as the appeal was not filed within the prescribed period of 45 days.

5. However, having regard to the fact that the petitioner had fully realised the proceeds and also has bank realisation certificate, the matter has to be reconsidered by the Joint Director General of Foreign Trade. We, therefore, quash and set aside the order dated 17th November, 2004 passed by the Jt. Director General of Foreign Trade and remand back the matter to the Jt. Director General of Foreign Trade to hear the matter afresh and disposed of the same on its own merits, in accordance to law.

6. Needless to say, the petitioner shall furnish the correct address to the Jt. Director General of Foreign Trade.

7. Writ Petition stands disposed of accordingly.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)